

# IRISH BAR.

RETURN to an Order of the Honourable The House of Commons,  
dated 21 July 1870 *per*,

COPY "of all CORRESPONDENCE which has taken place since the 20th day of April 1870, between a COMMITTEE of the IRISH BAR and the IRISH GOVERNMENT."

— No. 1. —

Mr. J. Clarke Lane to the Right Honourable the Chief Secretary for Ireland.

19, Upper Fitzwilliam-street, Dublin,  
20 April 1870.

Sir,

By the direction of a Committee of the Irish Bar appointed at a general meeting held upon the 5th of February last, I beg to forward herewith for your perusal a copy of the correspondence between the late Committee of the Bar, and the Benchers of the Honourable Society of the King's Inns.

This correspondence will enable you to understand and appreciate the questions which have arisen between the Bar and the Benchers as to the constitution of the Bench of the Honourable Society of the King's Inns.

As the Committee perceive that a Commission is about to be appointed on the motion of Lord Chelmsford to inquire into other matters of difference between the Benchers and another branch of the legal profession, the Committee have applied to Lord Chelmsford, expressing a hope that he will have no objection that the objects of the Commission should be extended so as to embrace an inquiry into the constitution of the Bench of the Honourable Society of the King's Inns, its relation to the Bar as its governing body, the annual income of the Society, the sources from which it is derived, and the mode in which it is expended.

The object of the Committee in making the present communication is to express a hope that if, upon a consideration of the accompanying papers, you consider the subject is one demanding inquiry, you will, on the part of the Irish Government, afford the necessary facilities for the extension of the Commission so as to include the objects sought to be attained by the Committee.

I have, &c.

(signed) J. Clarke Lane,  
Hon. Secretary.

The Right Hon. the Chief Secretary  
for Ireland.

Enclosure in No. 1.

*The Constitution of the Honourable Society of King's Inns.*

REPORT of the COMMITTEE appointed to inquire into the present Constitution of the GOVERNING BODY of the BAR, pursuant to a resolution of the Bar, at a Meeting held on the 5th of June 1869, with MINUTES of PROCEEDINGS and APPENDIX.

(Presented to the Bar at an adjourned Meeting.)

CONSTITUTION of the BENCH of the Honourable Society of KING'S INNS.

REQUISITION TO THE FATHER OF THE BAR OF IRELAND.

THE following Requisition was presented to the Father of the Bar of Ireland on the 31st of May 1869:—

To Robert Deane Meade, Esq., Father of the Bar of Ireland.

Sir,

WE, the undersigned members of the Bar of Ireland, request that you will convene a Public Meeting of the Bar, for the purpose of considering the present constitution of its

Governing

A

Governing Body, and the expediency of adopting means for securing that the future government of the Bar shall be committed to persons exclusively selected from our own body.

Francis McDonough, q.c.  
H. P. Jellett, q.c.  
C. Pilles, q.c.  
J. W. Carleton, q.c.  
James Kernan, q.c.  
D. C. Heron, q.c.  
R. W. Ferguson.  
F. W. M'Blaine.  
William Woodcock.  
George Oree.  
H. Law, q.c.  
B. C. Lloyd, q.c.  
James Charles Coffey, q.c.  
Fred. Richd. Falkner, q.c.  
Henry Fitzgibbon, q.c.  
P. Martin.  
T. A. Purcell, q.c.  
Henry J. Moses, LL.B.  
Peter O'Brien.  
George Waters, q.c.  
William O'Brien.  
Thomas E. Webb.  
Randall W. M'Donnell, q.c.  
Charles P. Hamilton.  
William Kenny.  
James F. Bookstef.  
Charles Boughhey.  
D. O'Riordan.  
J. B. Killeen.  
Francis T. L. Dames.  
John O'Hagan, q.c.  
W. Harris Fiske.  
George Parry.  
James Robinson, q.c.  
Edward Gibson.  
Gerald Fitzgibbon, Jun.  
R. P. Curton.  
M. O'Loughlin.  
Robert Seeds.  
James Nolan.  
Alexander Lane.  
Constantine Molloy.  
James Creed Meredith.

Arthur Cleary.  
John Sullivan.  
William L. Hackett.  
A. M. Porter.  
Francis Nolan.  
James Wilson.  
James Orr.  
Arthur Hamill, q.c.  
Robert B. Gordon.  
N. G. Blackall.  
George Vaughan Hart.  
J. H. M. Garrett.  
E. T. Bewley.  
Theodore Ryland.  
Charles H. Woodroffe, q.c.  
Edward Popham.  
William Anderson.  
J. W. Harris.  
Charles Henry Meldom.  
Robert Griffin.  
Thomas Upington.  
R. O'B. Furlong.  
Philip Lyster.  
Richard O'Shaughnessy.  
Edward F. Cahill.  
G. Keys.  
W. M. Johnson.  
William Rogers.  
Peter Darlow, q.c.  
Thomas M'Donnell, q.c.  
William J. Murphy.  
John R. Minnitt.  
C. Kelly, q.c.  
John Harkau.  
John C. Armstrong.  
John S. Barrett, Jun.  
W. M'Loughlin.  
James D. O'Connor.  
Samuel Walker.  
Frederick W. Walsh, q.c.  
Archibald J. Nicolls.  
Robert Reeves.  
Robert W. Symes.

George Foley.  
Dominick McCausland, q.c.  
George Orme Malley, q.c.  
P. Keogh.  
E. F. Litton.  
W. Mulholland.  
Mark S. O'Shaughnessy.  
W. H. Hartigan.  
Robert O'Maley.  
John O. Blesdon.  
Charles E. Tuthill.  
David Ross.  
William Ryan, q.c.  
J. C. Neigan.  
William R. Bruce.  
John V. Cassidy.  
W. J. O'Driscoll.  
Marshall N. Clarke.  
Robert Daniel.  
Romney Foley, q.c.  
W. J. Napier.  
R. R. Kane.  
Arthur Houston.  
P. McKenna.  
Matthew O'Donnell, q.c.  
Hugh H. M'Dermott.  
John Fraser.  
John George Gibson.  
Henry Parkinson.  
M. Blood Smyth.  
S. P. Curtis.  
Charles H. Foot.  
John Murray.  
Henry B. Dobbin.  
W. A. Sargent.  
Alexander G. Richey.  
John Bourne.  
W. H. Kishey.  
Loyle S. Montgomery.  
Robert J. Robertson.  
William Hickson.  
R. Allen.  
William Crozier, Jun.

#### GENERAL MEETING OF THE BAR OF IRELAND.

IN PURSUANCE of the foregoing Requisition, a Meeting of the Bar was summoned by the Father, and held in the Law Library, Four Courts, Dublin, on Saturday, the 5th of June 1889, at three o'clock p.m.

ROBERT D. MCBREIDY, Esq. (Father of the Bar), in the Chair.

It was proposed by James C. Coffey, Esq., q.c., seconded by H. P. Jellett, Esq., q.c., and carried unanimously:—

"That, in the opinion of the Irish Bar, the present constitution of their governing body is unsatisfactory."

It was then proposed by C. Pilles, Esq., q.c., seconded by S. W. Fether, Esq., and carried unanimously:—

"That the governing body of the Irish Bar ought to be remodelled, so as effectually to represent the profession."

It was then proposed by John O'Hagan, Esq., q.c., seconded by A. M. Porter, Esq., and carried unanimously:—

"That a Committee of the Bar be appointed to report, at an adjourned meeting, the best mode of giving effect to the foregoing Resolutions; and that such Committee be empowered to communicate, in the name of the Bar, with the Benchers of the Honourable Society of King's Inns."

It

It was then proposed by *Charles Kelly, Esq., Q.C.*, seconded by *Frederick B. Falkiner, Esq., Q.C.*, and carried unanimously:—

"That such Committee be chosen by ballot, and do consist of eight persons—four to be selected from the Inner, and four from the Outer Bar."

It was then proposed by *William Ryan, Esq., Q.C.*, seconded by *W. M. Johnson, Esq.*, and carried unanimously:—

"That Mr. Meredith and Mr. J. Clarke Lane be appointed scrutineers of the ballot; and that the ballot take place on Tuesday next, from one till three o'clock p.m."

At the ballot subsequently held, in accordance with the foregoing Resolutions, the following gentlemen were elected as a Committee:—

<i>Mr. J. C. Coffey, Q.C.</i>	<i>Mr. P. F. White.</i>
<i>Mr. H. P. Jellett, Q.C.</i>	<i>Mr. S. Walker.</i>
<i>Mr. C. Pallet, Q.C.</i>	<i>Mr. E. Gibson.</i>
<i>Mr. F. B. Falkiner, Q.C.</i>	<i>Mr. A. M. Porter.</i>

## PROCEEDINGS OF THE COMMITTEE.

*Friday, 11th June 1869.*

### MEMBERS PRESENT:

*Mr. COFFEY, Q.C.*, in the Chair.

<i>Mr. Jellett, Q.C.</i>	<i>Mr. White.</i>
<i>Mr. Pallet, Q.C.</i>	<i>Mr. Walker.</i>
<i>Mr. Falkiner, Q.C.</i>	<i>Mr. Gibson.</i>
	<i>Mr. Porter.</i>

It was resolved that a letter be written to the Benchers, enclosing a copy of the Resolutions passed at the Bar Meeting, and requesting access to books and documents. Appendix I.

*Tuesday, 15th June 1869.*

### MEMBERS PRESENT:

*Mr. JELLETT, Q.C.*, in the Chair.

<i>Mr. Pallet, Q.C.</i>	<i>Mr. White.</i>
<i>Mr. Falkiner, Q.C.</i>	<i>Mr. Walker.</i>
	<i>Mr. Gibson.</i>
	<i>Mr. Porter.</i>

It was resolved that a letter should be written to the treasurer of each of the English Inns of Court, asking to be referred to any sources of information upon the constitution of those Inns. Appendix II.

*Friday, 29th October 1869.*

### MEMBERS PRESENT:

*Mr. JELLETT, Q.C.*, in the Chair.

<i>Mr. Pallet, Q.C.</i>	<i>Mr. White.</i>
<i>Mr. Falkiner, Q.C.</i>	<i>Mr. Gibson.</i>
	<i>Mr. Porter.</i>

Letters were read by the honorary secretary from the English Inns of Court, in reply to his letters of the 18th of June 1869. App. III., IV., V.

It was resolved that letters should be written conveying the thanks of the Committee for these replies. Appendix VI.

It was also resolved that a letter should be written to the Benchers, pressing for a reply to the letter of the Committee of the 18th of June. Appendix VII.

*Thursday, 4th November 1869.*

MEMBERS PRESENT:

Mr. COFFEY, q.c., in the Chair.

Mr. Jellott, q.c.  
Mr. Palles, q.c.  
Mr. Falkner, q.c.

Mr. White.  
Mr. Walker.  
Mr. Gibson.  
Mr. Porter.

Appendix VIII.

The honorary secretary read a letter received from the under-treasurer of the King's Inns.

It was resolved that Messrs. Coffey, q.c., Jellott, q.c., Palles, q.c., Walker, and Gibson, should be appointed a sub-committee to examine the records of the Society of the King's Inns, in accordance with the Benchers' permission.

*Saturday, 13th November 1869.*

MEMBERS PRESENT:

Mr. COFFEY, q.c., in the Chair.

Mr. Jellott, q.c.

Mr. White.  
Mr. Walker.  
Mr. Gibson.

Appendix IX.

It was resolved that a letter should be written to the Benchers, requesting the appointment of a Committee of the Benchers to confer with this Committee upon the constitution and reform of the Society.

*Tuesday, 24th November 1869.*

MEMBERS PRESENT:

Mr. COFFEY, q.c., in the Chair.

Mr. Jellott, q.c.  
Mr. Palles, q.c.

Mr. Walker.  
Mr. Porter.

Appendix X.

The honorary secretary read a letter received from the under treasurer of the King's Inns.

*Friday, 26th November 1869.*

MEMBERS PRESENT:

Mr. JELLOTT, q.c., in the Chair.

Mr. Palles, q.c.

Mr. Walker.  
Mr. Gibson.  
Mr. Porter.

Appendix XI.

It was resolved that a letter should be written to the Benchers, embodying the changes in the constitution of the society which the Committee were prepared to recommend for the adoption of the Bar.

*Thursday, 13th January, 1870.*

MEMBERS PRESENT:

Mr. COFFEY, Q.C., in the Chair.

Mr. Jellett, Q.C.  
Mr. Pallett, Q.C.  
Mr. Falkiner, Q.C.

Mr. White.  
Mr. Walker.  
Mr. Gibson.  
Mr. Porter.

The honorary secretary read a letter received from the under treasurer of the King's Inns; and a series of resolutions passed by the Benchers, and enclosed therein.

It was resolved that steps should immediately be taken to have the proceedings and correspondence of the Committee with the Benchers printed, with a view to submitting them to the Bar.

*Wednesday, 19th January 1870.*

MEMBERS PRESENT:

Mr. JELLETT, Q.C., in the Chair.

Mr. Coffey, Q.C.  
Mr. Pallett, Q.C.  
Mr. Falkiner, Q.C.

Mr. White.  
Mr. Walker.  
Mr. Gibson.  
Mr. Porter.

The Committee considered the draft of the Report to be submitted by them to the Bar.

*Friday, 21st January 1870.*

MEMBERS PRESENT:

Mr. JELLETT, Q.C., in the Chair.

Mr. Coffey, Q.C.  
Mr. Pallett, Q.C.  
Mr. Falkiner, Q.C.

Mr. White.  
Mr. Walker.  
Mr. Gibson.  
Mr. Porter.

The Committee finally settled upon the terms of the Report to be submitted to the Bar.

R E P O R T.

To the Bar of Ireland,

WE, the Committee appointed in pursuance of the resolutions passed at a general meeting of the Bar of Ireland held on 5th June 1869, beg to present the following report for the consideration of the Bar.

Your Committee, in directing their attention to the inquiries committed to them by the resolutions of the Bar, deemed it desirable to ascertain, in the first instance, the constitution of the Society of King's Inns, as well as the rules which have from time to time existed for the government of the Inn and the election of the Benchers. Your Committee also considered that they would be aided in their inquiries by acquainting themselves with the practice as to the qualification and election of Benchers in the different Inns of Court in England. With this view, your Committee addressed a letter to the Benchers of the Society of King's Inns and to the treasurer of each of the Inns of Court in England, asking for information on this subject. Copies of these applications and of the replies will be found in the Appendix.

Your Committee desire to state, that they have received from the under treasurer of the King's Inns every assistance in the prosecution of their inquiries; and they take this opportunity to express their acknowledgments to the treasurers of the different Inns of Court

App. I, II, III,  
IV, V.

Court in England for the information they have supplied, and the courtesy and promptness with which it was afforded.

As the results of their inquiries, the Committee consider it established, that the Society of King's Inns cannot be regarded as anything more than a purely voluntary association, deriving its property from the contribution of its members, and having no claim to be deemed a corporate body. A charter was at one time granted, and an Act (32 Geo. 3, c. 18, Ir.) was passed to confirm the charter. The Bar, however, having petitioned Parliament against the charter, it was withdrawn, with the consent of the society; and by an Act of the following session, the Act (32 Geo. 3, c. 18, Ir.) confirming the charter was repealed. No attempt has since been made to incorporate the Society, and it retains its character of a voluntary association governed by rules which have from time to time been passed for the regulation of the Society.

Your Committee have, by the direction of the Benchers, been furnished with a copy of these rules, which commence in the year 1793, and appear to be founded on the bye-laws which accompanied the charter of 1793.

According to usage, the Benchers constitute the governing body of the Inn, and the practice to be adopted in the nomination of Benchers is supposed to be regulated by the 47th Rule of 5th December 1793, and the 15th Rule of 15th April 1842.

By the first of these rules (47th Rule, 5th December 1793) it is provided, that if any Benchers (the Lord Chancellor and Judges excepted) shall unlawfully absent himself without license from the meetings and councils of the Bench for the space of two whole successive terms, he shall from the last day of the last of the said terms be considered and be no longer a Benchers of the said Society; and that when the number of Benchers shall be at any time less than 32, exclusive of the Lord Chancellor and the Judges, then the residue of the Benchers in council assembled shall immediately proceed to elect, and shall elect, one or such other number as may be necessary, together with the Lord Chancellor and the Judges, to complete the number of Benchers to 45, out of such barristers of the said society as shall have been at the time when such vacancy happened 32 full terms full and perfect members of the said society, and shall have duly and regularly conformed to the rules and orders thereof during the whole of said time; but that the number of Benchers shall never hereafter exceed 45.

By the second of the above-mentioned rules (15th Rule, 15th April 1842) the Master of the Rolls was added to the number of *ex-officio* Benchers, and the entire number of the Benchers was increased to 46; and pending the inquiry of your Committee, the number of the Judicial Benchers has been further increased by the addition of the Lord Justice of Appeal, the Vice-Chancellor, and the Judge of the Court of Probate. The Benchers are thus divided into two classes—*ex-officio* Benchers, and Benchers selected from the practising body of the profession, who are hereafter designated Bar Benchers.

Your Committee believe that the objects intended to be attained by the Rules of 1793 and 1842 were:—

1st. That the Bench should consist of 14 members of the Judicial Bench and 32 members of the Bar.

2nd. That by fixing the number of the *ex-officio* Benchers at 14, and enumerating the judicial offices which should qualify the holders to be Benchers, it was intended to insure that none but the actual holders of the judicial offices named should be qualified to be *ex-officio* Benchers.

3rd. That the provision that any Benchers, other than a Judge, who should absent himself for two terms should vacate his place as Benchers, was intended to secure that the selection of Bar Benchers should be made from the practising body of the profession, and that they should continue Bar Benchers so long only as they should continue to practise.

4th. That as a corollary from the foregoing regulations, a Bar Benchers should vacate his Benchership on becoming a Judge, and that an *ex-officio* Benchers should vacate his Benchership on relinquishing his seat on the Bench, this being the only mode by which the proportion between the *ex-officio* Benchers and the Bar Benchers as defined by the rules could be effectively and permanently preserved.

The present constitution of the Benchers sufficiently shows how little either the letter or the spirit of these rules has been attended to. The proportion of *ex-officio* Benchers to Bar Benchers as contemplated by the rules, prior to their recent alteration, is 14 to 32. The present composition of the Bench is as follows:—

<i>Ex-officio</i> Benchers	-	-	-	-	-	-	-	-	-	17
Judges other than <i>ex-officio</i> Benchers	-	-	-	-	-	-	-	-	-	6
Retired Judges	-	-	-	-	-	-	-	-	-	4
Members of the Bar	-	-	-	-	-	-	-	-	-	19

The following are the numbers of the Judicial Benchers and Bar Benchers in the different Inns of Court in England:—

	Judicial Benchers (including Retired Judges.)	Bar Benchers.
Lincoln's Inn - - - - -	6	63
Inner Temple - - - - -	8	49
Middle Temple - - - - -	3	42
Gray's Inn - - - - -	1	26

Your Committee believe that no causes have contributed more to reduce the number of the Bar Benchers below that contemplated by the rules than the practice of members of the Bar elected as Bar Benchers retaining their seats after they have accepted judicial offices not qualifying them to be Benchers *ex officio*, and *ex-officio* Benchers retaining their Bencherships after they have relinquished their seats on the Bench; and your Committee consider that, until steps are taken to arrest these abuses, creations of additional Benchers, however numerous, from the practising body of the Bar will afford at most a temporary remedy.

Your Committee also consider it essential that provision should be made for a permanent representation of the Outer Bar, who are at present wholly unrepresented, and that this should be secured by a provision analogous to that suggested in the case of Bar Benchers raised to the Judicial Bench; namely, that any Benchers elected as such to represent the Outer Bar should vacate such Benchership when called within the Bar.

Your Committee being empowered to communicate with the Benchers in the name of the Bar, and believing that if the views embodied in this Report were placed before the Benchers a satisfactory solution of the questions at issue might be arrived at, addressed a letter to the Benchers, proposing that a Committee should be appointed by them to meet your Committee, and receive an explanation of their views. The Benchers declined this proposal, but stated that they were willing to receive any suggestions your Committee might offer as to the composition of the Bench, and to give them full and early consideration.

Appendix IX.

Appendix X.

Your Committee accordingly addressed a letter to the Benchers on the 30th November 1869, explaining their views as to the alterations in the composition of the Bench; and on the 12th January 1870, your Committee received the following communication, enclosing a copy of a series of resolutions passed at a meeting of the Benchers, held on the 11th January 1870:—

Appendix XI.

Appendix XII.

Gentlemen,

King's Inn, Dublin, 12 January 1870.

In reply to your letter of the 30th November last, addressed to the Benchers, I am directed to inform you that the Benchers decline to adopt the suggestions contained therein. I am also to state to you, for the information of the Bar, that the Benchers have passed the resolutions, of which I enclose you a copy.

I am, &c.  
(signed) John D. O'Hanlon,  
Under Treasurer.

The Committee of the Bar.

(Resolutions enclosed.)

Resolved,

"That the present composition of the Bench is not satisfactory, as it does not contain a sufficient proportion of the practising members of the Bar.

"That with a view to provide an immediate remedy for this defect, the four vacancies now existing be filled by election from the practising members of the Bar.

"That it is desirable that there should be at all times, at least, 20 practising barristers, members of the Bench.

"That the Lord Justice of Appeal, the Vice Chancellor, and the Judge of the Court of Probate shall, in future, be Benchers, *ex officio*.

"That the Rules of the 5th December 1783, No. 47, and of the 18th May 1812, as to the non-attendance of the Benchers be acted on in future, and that the attendance of the Benchers be specially called to the same."

11 January 1870.

Your Committee not having received any explanation from the Benchers as to the grounds upon which they rejected the suggestions of your Committee, and the Benchers having declined the proposal of a conference, in which your Committee hoped the views of each party could have been discussed, and, if necessary, modified, your Committee are unable to lay before the Bar any statement of the considerations upon which the Benchers dissent from the views of your Committee.

It, of course, rests with the general body of the Bar ultimately to determine how far the resolutions of the Benchers are satisfactory to them. Your Committee may, however,

observe, that while the Benchers are coerced to admit the unsatisfactory composition of the Bench, and the justice of the complaints embodied in the Resolutions of the Bar, under which your Committee are constituted, the Resolutions of the Benchers fail to supply any remedy for the evils they acknowledge to exist.

No reason is assigned for reducing the representative number of the practising Bar from 32, its original strength, to 20, even if the third resolution pledged the Benchers to appoint or preserve that number, which it guardedly abstains from doing. No Resolution is passed ensuring a representation of the Outer Bar, and no offer is made on the part of the Benchers that the places held by retired judges shall be vacated; and until these concessions have been made, the opinion embodied in the third Resolution, however valuable, as constituting the best testimony to the propriety of the course pursued by the Bar, is incapable of receiving practical effect.

The Committee believe that the true remedy for these admitted evils is to be found in the restoration of the constitution of the Inn, according to its real spirit and intention, as evidenced by the 47th Rule of 1793, making due allowance for the subsequent creation of the judicial offices of the Master of the Rolls, Lord Justice of Appeal, Vice-Chancellor, and Judge of the Court of Probate.

Your Committee, therefore recommend,—

1st. That the Benchers shall consist of 46 members, 17 to be *ex-officio* Benchers, and 29 to be elected as hereinafter mentioned; the *ex-officio* members to consist of the Lord Chancellor, the Master of the Rolls, the Lord Justice of Appeal, the Vice-Chancellor, the 12 Judges of the Superior Courts of Common Law, and the Judge of the Court of Probate, all for the time being.

2nd. That the 29 elected members be chosen from the practising members of the Bar; and that four, at least, of such Benchers shall at all times be members of the Outer Bar.

3rd. That each elected member of the Bench shall vacate his seat on his promotion to such a judicial office as involves the relinquishment of his practice, or on his otherwise permanently ceasing to practise; and that any Benchers who, when elected, shall be a member of the Outer Bar, shall vacate his seat on being called within the Bar.

Your Committee have anxiously considered what would be the best mode of giving effect to the foregoing recommendations; and having regard to what has already taken place, they believe that no attempt on the part of the Bar to re-open negotiations with the Benchers would be attended with any beneficial result.

Your Committee believe that the only course now remaining to the Bar, or compatible with the dignity of their profession, is an application to the Legislature for an Act of Parliament to establish the constitution of the Inns on such a basis as will restore to the profession the right of self-government, and protect this right from all future encroachment.

(signed) *James Charles Coffey, Q.C.*  
*H. P. Jellott, Q.C.*  
*C. Polles, Q.C.*  
*F. R. Falkner, Q.C.*  
*Peter F. White.*  
*S. Walker.*  
*Edward Gibson.*  
*A. M. Porter.*

*J. Clarke Lane, Hon. Sec.*

## APPENDIX.

### I.

Gentlemen,

Law Library, Four Courts,  
 14 June 1869.

I AM directed by the Committee appointed pursuant to resolutions passed at the recent meeting of the Bar of Ireland, to forward you a copy of the resolutions. The following gentlemen have been elected to act as a committee, viz., Messrs. Coffey, Q.C.; Jellott, Q.C.; Polles, Q.C.; Falkner, Q.C.; P. F. White; S. Walker; E. Gibson; and A. M. Porter.

The Committee are anxious to ascertain whether there is any objection on the part of the Benchers to afford the Committee, or their secretary, access to the documents and books of the Society calculated to throw light on the constitution and history of the King's Inns.

The Right Hon. and Hon. the Benchers  
 of the Hon. Society of King's Inns,

I have, &c.  
 (signed) *J. Clarke Lane,*  
 Hon. Sec.



## II.

84, Lower Baginbun-street, Dublin,  
16 June 1869.

Sir,

At a general meeting of the Bar of Ireland, held on the 5th instant, a committee was appointed for the purpose of inquiring into the existing constitution of the governing body of the profession, and of suggesting such alterations as they should consider desirable.

The Committee so appointed being desirous to obtain such information as may enable them to discharge the duty imposed upon them, have directed me to communicate with you as the treasurer of , and to ask, if you can, without inconvenience, refer them to any sources of information respecting the present constitution of your Inn, the number of its Benchers, the mode and principle of their election, and the powers they possess.

I have, &c.

To —, Treasurer of —

(signed) J. Clarke Lane,  
Hon. Sec.

## III.

Steward's Office, Gray's Inn, W.C.,  
8 July 1869.

Sir,

I am directed by the treasurer and masters of the Bench to acknowledge the favour of a communication, under date the 16th ultimo, asking that your Committee may be referred to any sources of information respecting the present constitution of this Inn, the number of the Benchers, the mode and principle of their election, and the powers they possess. The Bench beg to direct attention to the Report, presented to both Houses of Parliament by command of Her Majesty, of the Commissioners appointed to inquire into the arrangements in the Inns of Court and Inns of Chancery for promoting the study of the law and jurisprudence, together with Appendices, under date of 10th August 1855. I am also directed to add, that if there be any further information which the Bench find themselves in a position to give, they will be most happy to do so.

The number, at present, of the Benchers is 24.

I am, &c.

J. Clarke Lane, Esq.,  
84, Lower Baginbun-street, Dublin.

(signed) Charles Edmund Banks,  
Steward.

## IV.

Lincoln's Inn, 13 July 1869.

Sir,

I AM directed by Mr. Bacon, Q.C., Treasurer of Lincoln's Inn, to acknowledge the receipt of your letter to him, and to supply such information as I am able to give on the subject of your inquiries.

As to the present constitution of the Society of Lincoln's Inn, I have the honour to inform you that there are now 67 Benchers, about 1,400 Barristers, and about 350 Students, members of the Society.

With respect to Benchers, I beg to say that there is no regulation limiting their number; but that the matter of their invitation is ruled by certain bye-laws, a copy of which, marked (A.), is enclosed herewith; that, subject to these bye-laws, all barristers of the society, appointed of Her Majesty's counsel, are eligible for invitation to the Bench; and that the Speaker of the House of Commons, and the Chancellor of the Duchy of Lancaster, when members of the Society, are also invited. The Benchers are the Governors of the Society, having the control and management of all its affairs, and the appointment of its officers and servants.

As to Barristers and Students, I beg to refer you to the consolidated regulations, marked (B.), for information on the subject of admission to the Society, and the qualification for call to the Bar.

With respect to the origin and growth of the Society, and of the powers of the Benchers, much reliable information may be found in Dugdale's "Origines Juridicæ," and in Herbert's "Inns of Court," to which works I beg to refer you.

I have, &c.

J. Clarke Lane, Esq.,  
84, Lower Baginbun-street, Dublin.

(signed) Mr. Doyle, Steward.

(Enclosure A.)

## LINCOLN'S INN.

MEMORANDUM of recent Orders as to Invitations to the Bench.

24th February 1858 :—

That no person who has been, or shall be admitted, as *excoed*, here, shall be eligible to be invited to the Bench until 10 years after he has been so admitted.

8th May 1860, and 12th June 1860 :—

That no one be invited to the Bench without a week's notice previously given to the members of the Bench.

15th April 1861 :—

That no one be invited to the Bench, except during Term time.

20th February 1867 :—

That no one be invited to the Bench, except by the votes of two-thirds of the Benchers present in council, nor by less than twelve votes.

## V.

Treasurer's Office, Inner Temple, E.C.

16 June 1869.

Sir,

YOUR letter of the 16th June was duly laid before the Bench of this Society, and I have to regret the delay that has occurred in replying to it. It appears that you have already received answers to similar inquiry from the Societies of Lincoln's Inn and the Middle Temple. Those answers have been communicated to us, and I am directed to say that we are not aware of any additional information that would be serviceable to you, beyond that which relates to the numbers of our body, which, at present, stand as follows:—

57 Benchers.

About 1,700 Barristers.

" 1,100 Students.

In other respects, the circumstances of our Society are very much the same as those represented to you with respect to Lincoln's Inn and the Middle Temple.

I am, &amp;c.

(signed) *George Edwards,*  
Sub-Treasurer.

J. Clarke Lane, Esq.

[A letter was also promptly received from the Treasurer of the Middle Temple, kindly supplying the information requested by the Committee, but it has unfortunately been mislaid.]

## VI.

Law Library, Four Courts, Dublin,

30 October 1869.

Sir,

I AM directed by the Committee appointed at the meeting of the Bar of Ireland, held upon the 5th of June, to request you will be good enough to convey to your society the best thanks of the Committee for the information contained in your letter of the — day of July.

The first meeting of the Committee held since receipt of your letter was upon the 29th ult., or it would have been their duty to have taken an earlier opportunity of expressing their thanks for its contents.

I have, &amp;c.

(signed) *J. Clarke Lane, Hon. Sec.*

## VII.

Law Library, Four Courts,

30 October 1869.

Gentlemen,

I AM directed by the Committee appointed pursuant to resolutions passed at the meeting of the Bar of Ireland, held upon the 5th of June, to call your attention to my letter of the 14th of June, inquiring if there was any objection on the part of the Benchers to afford the Committee, or their secretary, access to any document and books of the society calculated to throw light on the constitution and history of the King's Inns.

As

As the Committee are anxious to complete the inquiry entrusted to them by the Bar, they hope that, if not inconvenient to the Benchers, they may be favoured with a reply.

The Right Hon. and Hon. the Benchers  
of the Hon. Society of King's Inns.

I have, &c.  
(signed) *J. Clarke Lane,*  
Hon. Sec.

## VIII.

Gentlemen,

King's Inns, Dublin, 3 November 1869.

In reply to your letter of the 14th June last, addressed to the Benchers of the Honourable Society of King's Inns, I beg leave to inform you that I have been instructed by the Benchers to comply with the request therein contained.

To the Committee  
of the Bar of Ireland.

I am, &c.  
(signed) *John D. O'Hendon,*  
Under Treasurer.

## IX.

Law Library, Four Courts,  
15 November 1869.

Gentlemen,

I AM directed by the Committee appointed pursuant to Resolutions passed at the meeting of the Bar of Ireland, held on the 5th of June, to express their acknowledgements to the Benchers for the manner in which the application of the Committee for information as to the history and constitution of the Inns has been met by the Benchers, and the facilities which have been afforded them by the Sub-Treasurer in the prosecution of the inquiries committed to them by the Bar.

The spirit in which the Committee have been received inclines them to believe that a fuller acquaintance on the part of the Benchers with the wishes of the Bar, and the views of the Committee as to the changes in the constitution of the Society necessary to ensure an adequate representation of the practising Bar in the governing body of the profession, would lead to an understanding which might be made the basis of a reform satisfactory to the Bench and the Bar.

The Committee have been empowered by the Resolutions of the Bar, copies of which have been already forwarded to you, to confer with the Benchers on the subject of the inquiry undertaken by the Committee; and the Committee believe that if a similar body, with as full powers, be nominated by the Benchers, a conference between the two Committees will afford the best opportunity of explaining the views of the bodies they will represent.

The Committee venture to hope that the result of such a conference would be the establishment of the future constitution of the governing body of the Bar on such a basis as, while it would fully represent the practising body of the Bar, would, at the same time, preserve the bond which should unite the Bar with the Judicial Bench in the government of their common profession.

The Right Hon. and Hon. the Benchers  
of the Hon. Society of King's Inns.

I have, &c.  
(signed) *J. Clarke Lane,*  
Hon. Sec.

## X.

Gentlemen,

King's Inns, Dublin, 24 November 1869.

In reply to your letter of 15th instant, addressed to the Benchers, I am directed to inform you that the Benchers are willing to receive any suggestions which you may wish to make respecting the composition of the Bench, and to give them full and early consideration.

The Committee of the Bar of Ireland.

I am, &c.  
(signed) *John D. O'Hendon,*  
Under Treasurer.

## XI.

Law Library, Four Courts,  
30 November 1869.

Gentlemen,

I AM directed by the Committee of the Bar to acknowledge the receipt of your letter of the 24th instant.

The Committee regret that the communication of the Benchers contains no reference to the proposal of a conference contained in my letter of the 15th instant, which the Com-

mittee still consider would have afforded the best opportunity of explaining their views to the Benchers. At the same time the Committee are anxious that no occasion should be lost for placing before the Benchers the objections entertained to the system which has for some time prevailed in the election of Benchers.

The Committee believe that the existing rules of the society, administered according to their true spirit and intention, would effect most of the changes which the Committee deem essential.

The 47th Rule of the 5th of December 1788, provides "that if any Benchor (the Lord Chancellor and Judges excepted) shall wilfully absent himself without license from the meetings and councils of the Bench for the space of two whole successive Terms, he shall, from the last day of the last of the said Terms, be considered, and be no longer a Benchor of the said Society; and that when the number of Benchers shall be at any time less than 32, exclusive of the Lord Chancellor and the Judges, then the residue of the Benchers in Council assembled, shall immediately proceed to elect, and shall elect one, or such other number as may be necessary, together with the Lord Chancellor and the Judges, to complete the number of Benchers to 46, out of such Barristers of the said society as shall have been, at the time when such vacancy happened, 32 full Terms full and perfect members of the said society, and shall have duly and regularly conformed to the rules and orders thereof during the whole of said time; but that the number of Benchers shall never hereafter exceed 46."

This rule was afterwards modified by the 15th Rule of the 15th of April 1842, by adding the Master of the Rolls to the number of Judicial Benchers, and thus increasing the number of the body to 46.

The Committee believe that the objects intended to be attained by these Rules were:—

1st. That the Benchers should consist of 14 members of the Judicial Bench, and 32 members of the Bar.

2nd. That, by fixing the number of the Judicial Benchers at 14, and enumerating the Judicial offices which should qualify the holders to be Benchers, it was intended to insure that none but the actual holders of the Judicial offices named should be qualified to be Judicial Benchers.

3rd. That the provision that any Benchor, other than a Judge, who should absent himself for two Terms should vacate his place as Benchor, implies that the selection of Bar Benchers should be made from the practising body of the profession; and that they should continue Bar Benchers so long only as they should continue to practise.

4th. That the provision, that when the number of Benchers should be less than 32, exclusive of the Lord Chancellor and the Judges, the residue of the Benchers should proceed to elect to the vacancy, was intended to secure that in electing to a Bar Benchership the Bar Benchers alone should be entitled to vote.

5th. That, as a corollary from the foregoing regulations, it was intended that a Bar Benchor should vacate his Benchership on becoming a Judge, and that a Judicial Benchor should vacate his Benchership on relinquishing his seat on the Bench, this being the only mode by which the proportion between the Judicial Benchers and the Bar Benchers, as defined by the rules, could be effectually and permanently preserved.

The committee are aware that the creation of new Judicial offices would necessarily involve some modification in these rules; and they are, therefore, prepared to recommend to the Bar the following propositions:—

That the Benchers shall consist of 46 members; 17 to be *ex-officio* Benchers, and 29 to be elected as hereinafter mentioned. The *ex-officio* members to consist of the Lord Chancellor, the Master of the Rolls, the Lord Justice of Appeal, the Vice-Chancellor, the 12 Judges of the Common Law Courts, and the Judge of the Court of Probate, all for the time being. The 29 elected members to be chosen by the elected Benchers from the practising members of the Bar of Ireland, and four at the least of such Benchers to be elected from the practising members of the Outer Bar exclusively.

That each elected member shall vacate his seat on his promotion to such a Judicial office as involves the relinquishing of his practice; and that any Benchor who, when elected, shall be a member of the Outer Bar, shall vacate his seat on being called within the Bar.

That such of the present Benchers as are not qualified, either as *ex-officio* or elected Benchers, under the foregoing regulations, shall continue to hold office as honorary Benchers; and that an equivalent number of new Benchers, to be nominated by the Bar at a general meeting, shall be now elected by the Benchers; the vacancy caused by an honorary Benchor vacating his seat not to be filled up.

In making the foregoing suggestions, the committee have anxiously avoided proposing any violent change. They conceive that the ancient constitution of the Inn affords the true basis for the settlement of the questions now at issue; and if the above suggestions depart from such constitution, it is only by increasing the numbers of the Judicial Benchers to 17, and reducing that of the representatives of the Bar from 32 to 29.

I have, &c.

The Right Hon. and Hon. the Benchers  
of the Hon. Society of the King's Inns, Dublin.

(signed) J. Clarke Lewis,  
Hon. Sec.

## XII.

Gentlemen,

King's Inns, Dublin, 12 January 1870.

In reply to your letter of 30th of November last, addressed to the Benchers, I am directed to inform you that the Benchers decline to adopt the suggestions contained therein. I am also to state to you, for the information of the Bar, that the Benchers have passed the Resolutions of which I enclose you a copy.

I am, &c.  
(signed) John D. O'Hanlon,  
Under-Treasurer.

The Committee of the Bar.

(Resolutions enclosed.)

Resolved—

"That the present composition of the Bench is not satisfactory, as it does not contain a sufficient proportion of the practising Members of the Bar.

"That, with a view to provide an immediate remedy for this defect, the four vacancies now existing be filled by election from the practising Members of the Bar.

"That it is desirable there should be at all times at least 20 practising barristers, Members of the Bench.

"That the Lord Justice of Appeal, the Vice-Chancellor, and the Judge of the Court of Probate, shall in future be Benchers *ex-officio*.

"That the Rules of the 5th December 1793, No. 47, and of the 18th May 1812, as to the non-attendance of Benchers, be acted on in future, and that the attention of the Benchers be specially called to the same."

11 January 1870.

— No. 2. —

Mr. J. Clarke Lane to the Right Honourable the Chief Secretary for Ireland.

19, Upper Fitzwilliam-street, Dublin,  
6 May 1870.

Sir,

I AM directed by the Committee of the Irish Bar to enclose you a copy of the letter received from Lord Chelmsford, in reply to their communication of the 20th ultimo, mentioned in my letter to you of the same date.

You will observe that Lord Chelmsford seems to consider that there would be a difficulty in engrafting on the Commission about to be issued on his motion an inquiry in relation to the questions which have arisen between the Benchers and the Bar.

The Committee are, therefore, anxious to know whether, on a consideration of the documents which I have already forwarded to you, the Government would be prepared to issue a Commission for the purpose of inquiring into the constitution of the Bench of the Honourable Society of the King's Inns, its relation to the Bar as its governing body, the annual income of the Society, the source from which it is derived, and the mode in which it is expended.

If you should consider the Government would be aided in arriving at a conclusion on this question by a conference with a deputation from the Committee, the Committee would be prepared to instruct a deputation of their body to proceed to London and meet you at any time and place which it might suit your convenience to appoint.

I have, &c.  
(signed) J. Clarke Lane,  
Hon. Sec.

The Right Hon. the Chief Secretary  
for Ireland.

## Enclosure in No. 2.

7, Eaton-square, S.W.

LORD CHELMSFORD presents his compliments and begs to assure the Committee appointed at the meeting of the Irish Bar that any matter concerning their interests cannot fail to command his attentive consideration.

At the same time it seems to him impossible to engraft upon the Commission which is about to be issued, the subjects of inquiry contained in the Report of the Committee.

The Commission will be founded upon an address of the House of Lords to the Crown, stating the specific grounds upon which it is prayed. These relate solely to the solicitors and attorneys, and when the answer is returned, it will convey the Royal Assent to a Commission embracing the subjects of inquiry contained in the address, and no others. It will not be in the power of the Irish Secretary or of anyone else to extend the terms of the Commission.

Lord Chelmsford would observe that it is not necessary in order to obtain a Royal Commission to proceed by an address to the Crown. If the matters in dispute between the Irish Bar and the Benchers of the King's Inns can be made to appear of sufficient importance to the Government to call for investigation, they may, without any preliminary proceeding, recommend the issuing of a Commission.

25 April 1870.

## — No. 3. —

The Right Honourable the Chief Secretary for Ireland to Mr. J. Clarke Lane.

Sir,

Irish Office, 18 July 1870.

In reply to your letter of the 6th May last, requesting to know whether, upon a consideration of the documents which you had previously forwarded to me, the Government would be prepared "to issue a Commission for the purpose of inquiring into the constitution of the Bench of the Honourable Society of the King's Inns, its relation to the Bar as its governing body, the annual income of the Society, the source from which it is derived, and the mode in which it is expended," I beg to say that those documents do not, in my opinion, at present establish the necessity for, or expediency of, the Government adopting such a course.

As regards the Commission issued upon the motion of Lord Chelmsford in the House of Lords, the grounds (as I understand them) for that inquiry, were that claims of a pecuniary or proprietary character are made by the body of solicitors and attorneys upon the Benchers, which, under ordinary circumstances could and ought to be the subject of investigation in a court of equity; but inasmuch as every judge in Ireland, before whom such claims could be brought, is a member of the body of Benchers, it follows that the necessary investigation can be obtained only by the appointment of some special tribunal, such as a Royal Commission.

The documents which you have done me the honour to lay before me do not show the existence of any similar state of facts in the case of the Bar.

In the correspondence between the Bar and the Benchers, there appears no suggestion of any pecuniary or proprietary claim. It does not appear that there is any dispute or controversy as to the amount of the income of the Society, its source, or the mode of its expenditure, and under all the circumstances I do not at present see anything in the case which demands, or perhaps I might say would justify the Government in issuing, such a Commission.

If it appears to the Committee of the Bar that there is any error in the view taken by me of the documents, which might be removed by a conference with a deputation from the Committee, I shall be happy to name a time and place for meeting such a deputation.

I have, &c.  
(signed) C. P. Fortescue.



ENTER B.A.B.

RECORDED

COPY of all Communications which has since  
been sent the 20th April 1876, between a  
Commissioner of the House of Commons and the House  
of Commons

(See House of Commons)

Received by the House of Commons, 20th April,  
4 April 1876

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